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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

SIERRA FOREST LEGACY, SIERRA
CLUB, EARTH ISLAND INSTITUTE,
and CALIFORNIA NATIVE PLANT
SOCIETY, non-profit organizations,

Plaintiffs,

v.

BERNARD WEINGARDT, in his official
capacity as Regional Forester, Region 5,
United States Forest Service, EDWARD
COLE, in his official capacity as Forest
Supervisor, Sierra National Forest
United States Forest Service, ABIGAIL
R. KIMBELL, in her official capacity as
Chief of the United States Forest Service,
and UNITED STATES FOREST
SERVICE, an agency of the United States
Department of Agriculture,

Defendants.

CASE NO: C 07-2646 SBA

**JOINT STIPULATION AND
[proposed] ORDER STAYING
DEFENDANTS' ANSWER**

1 Plaintiffs and Defendants, by their undersigned attorneys, have conferred and hereby
2 stipulate as follows:

3 1. Plaintiffs filed this action on May 18, 2007, in the District Court for the Northern District
4 California, and filed an administrative motion seeking a determination of whether this case was
5 related to other cases in the Northern District. See Docket Nos. 1 & 4.

6 2. On June 1, 2007, Defendants responded to Plaintiffs' motion to determine whether this
7 case was related to other cases in the Northern District, and filed a motion to transfer venue to the
8 Eastern District of California. See Docket Nos. 10 & 11. Defendants' motion to transfer was
9 noticed on the calendar of Magistrate Judge Spero for hearing on July 6, 2007.

10 3. On June 13, 2007, Plaintiffs declined to proceed before a magistrate judge, and on June
11 14, this case was transferred to the Honorable Sandra Brown Armstrong. See Docket No. 16.

12 4. On June 15, 2007, the Court determined this case is not related to other cases. See Docket
13 No. 18.

14 5. On June 21, 2007, Defendants re-noticed their motion to transfer on Judge Armstrong's
15 calendar for September 11, 2007.

16 6. Defendants' answer to Plaintiffs' complaint is due July 23, 2007.

17 7. The parties agree that continued advancement of this litigation should await resolution of
18 the question of the appropriate venue, and therefore stipulate and propose to the Court that:

19 a. Defendants shall file an answer within thirty (30) days after the Courts' ruling on
20 the pending motion to transfer venue.

21 b. Defendants shall file the administrative record¹ for the challenged decision within
22 thirty (30) days of the date the answer is filed.

23 8. The parties respectfully request that the deadlines established in the existing case
24 management orders be vacated pending resolution of Defendants' motion to transfer venue. See
25 Docket No. 1 (Order Setting Initial Case Management Conference) and Docket No. 21 (Case

26
27 ¹ This case is one seeking judicial review of an agency decision under the Administrative Procedure
28 Act and will be adjudicated on an administrative record on the parties' cross motions for summary
judgment.

1 Management Scheduling Order For Reassigned Civil Cases). Should the Court deny Defendants'
2 motion to transfer venue, the parties will confer and, within fourteen (14) days of the Court's
3 order, shall submit a case management report and proposed schedule for resolution of this matter.

4 9. The Forest Service agrees not to advertise timber sales or implement the on-the-ground
5 activities authorized by the challenged Kings River Project Record of Decision until the Court
6 rules on the pending motion to transfer venue, and will give Plaintiffs thirty (30) days notice
7 before beginning on-the-ground operations.

8 Respectfully submitted this 18th day of July, 2007,

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10 RONALD J. TENPAS
11 Acting Assistant Attorney General
Environment & Natural Resources Division

12 /s/ Barclay Samford
13 BARCLAY SAMFORD
14 Trial Attorney
15 Natural Resources Section
16 Environment & Natural Resources Division
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17 On behalf of Defendants

18 /s/ George M. Torgun
19 GEORGE M. TORGUN, State Nar No. 222085
20 Earthjustice
426 17th Street, 5th Floor
Oakland, CA 94612

21 On behalf of Plaintiffs
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PURSUANT TO STIPULATION, it is ORDERED that:

1. Defendants shall file an answer within thirty (30) days after the Courts' ruling on the pending motion to transfer venue.
2. Defendants shall file the administrative record for the challenged decision within thirty (30) days of the date the answer is filed.
3. The existing case management orders (Docket Nos. 1 & 21) are VACATED.
4. Should the Court deny Defendants' motion to transfer venue, the parties shall confer and, within fourteen (14) days of the Court's order, submit a case management report and proposed schedule for resolution of this matter.

Dated:

Saundra Brown Armstrong
United States District Judge